

OFFICE OF THE PUBLIC DEFENDER



STATE OF MARYLAND

FISCAL YEAR 2011 ANNUAL REPORT With Strategic Plan

Paul B. DeWolfe
Public Defender

www.opd.state.md.us

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LETTER FROM THE PUBLIC DEFENDER

In this Annual Report, the Office of the Public Defender proudly publishes its first strategic plan in the nearly 40 year history of the agency. Thanks to a generous grant from the Open Society Institute-Baltimore and a subsequent grant from the United States Department of Justice, Bureau of Justice Assistance, National Training and Technical Assistance Center, the agency has not only drafted and published the strategic plan but has developed comprehensive strategies for implementing it. Firmly grounded on our stated core values; Culture of Excellence, Tenacious Advocacy, Client Centered and United in our Mission, the plan will be used as a template for decision making and resource allocation in the years to come. Every employee of the agency was given the opportunity to contribute to the development of the common vision. This strategic plan can be transformative particularly in these challenging times. It will enable us to re-center on our mission, refine our vision of success, and focus our time and resources on the projects and initiatives with the greatest potential for transforming OPD in order to support our mission of providing superior representation to the indigent accused in Maryland. In this regard, the strategic plan will provide a means to ensure that all parts of the organization – administration, districts and divisions, are working collaboratively together in alignment to realize a vision that is fulfilling to our staff, compelling to our clients, and relevant to the many stakeholders we work with across the entire criminal justice system. In these difficult financial times, the goals and strategies set forth in this plan, in combination with effective management, will allow us to make the most efficient use of the resources we have whether those resources are limited or abundant.

As the following pages indicate, OPD attorneys have witnessed the steepest increase in caseloads in a decade. This has coincided with a loss of nearly 20% of our workforce due to budget reductions, the statewide Voluntary Separation Program and mandatory cost-savings initiatives. To be sure, the challenges ahead are daunting. We expect higher caseloads in every district and division across the state, additional position reductions and decreasing resources at our disposal. As always we rely on our most valuable asset, our employees and their commitment, compassion and talent for zealous advocacy to accomplish our **vision** of justice, fairness and dignity for all and to fulfill our mission to provide superior legal representation to the indigent defendants in the State of Maryland.



Paul B. DeWolfe
Public Defender
September 30, 2011



Office of the Public Defender Core Values

Culture of Excellence

- We embody the highest standards of professionalism in all aspects of our work.
- We act with integrity.
- We consistently follow best practices.
- We embrace diversity.
- We learn from our experiences.
- We continuously raise the bar through healthy competition.
- We are open to new ideas and concepts.
- We are hard-working, dedicated, and committed.
- We expect excellence.

Tenacious Advocacy

- We litigate aggressively.
- We are relentless and resourceful problem solvers for our clients.
- We are engaged, prepared, passionate, and assertive.
- We advocate for our clients at every opportunity

Client Centered

- We are compassionate.
- We strive to achieve our client's objectives.
- We communicate effectively with our clients at every stage.
- We counsel our clients about their choices.
- We listen and are responsive to our clients.
- We respect and advocate for the dignity of each individual.

United in Our Mission

- We are one team working toward shared goals.
- We value and appreciate every employee.
- We take a collaborative approach in all that we do.
- We celebrate our successes as a community.
- We promote shared resources.
- We are inclusive, respectful and supportive of each other.



OPD Strategic Plan, 2011-2014

Focus Area	Goals		
Culture of Excellence	1. Develop clear standards of work performance.	2. Build a talent-based organization.	3. Develop mechanisms that promote excellence.
Client Centered	1. OPD provides best legal representation through vigorous advocacy in courtroom and out.	2. Ensure the defense team includes the client.	3. Secure client access to necessary, related services.
Leadership & Management	1. Ensure clear, transparent, and consistent communication.	2. Allocate available resources fairly, consistent with OPD priorities.	3. Appoint effective managers.
Positive Work Environment	1. Create a team-driven agency.	2. Improve morale within the agency.	3. OPD employees have sufficient resources and adequate physical workplaces.
I/T Is Mission Critical	1. Achieve and maintain current technology.	2. Empower full use of technology resources.	3. Innovate to achieve efficiencies & synergy.

OPD Strategic Plan & Baltimore City District Public Defender Strategic Plan developed with funding from Open Society Institute-Baltimore. Statewide implementation supported with a technical assistance grant from the U.S. D.O.J. Bureau of Justice Assistance National Training and Technical Assistance Center.

PUBLIC DEFENDER OPERATIONS

2012 Marks the 40th Anniversary of the Maryland Office of the Public Defender

Prior to the creation of the Office of the Public Defender by the Maryland Legislature on July 1, 1971, the appointment of counsel for indigent defendants in state prosecutions was limited to those cases where, in the judgment of the trial court, “a just regard for the rights of the accused require[d] it.” Acts of 1886, Ch. 46, Section 1. Thus, by statute, in Maryland there was no *right* to appointed counsel, only the discretionary authority of the trial court to appoint counsel.

On March 18, 1963, the United States Supreme Court, in *Gideon v. Wainwright*, 372 U.S. 335 (1963), announced that the Sixth Amendment of the United States Constitution guaranteeing the right to counsel in federal prosecutions, applied with equal force to state prosecutions. Between the years 1963 and 1970, the United States Supreme Court continued to expand the right to counsel beyond the trial itself to include the right to counsel at line-ups, custodial interrogations, preliminary hearings and arraignments.

In response to the continuing expansion of the right to counsel, the Governor of Maryland created a Commission to study the need for a statewide public defender system. This culminated in the passage of Article 27A, creating a statewide public defender system funded by the State of Maryland which opened its doors in 1972.¹

OPD Structure

A thirteen-member Board of Trustees is composed of 11 members appointed by the Governor with the advice and consent of the Senate and one member each appointed by the President of the Senate and the Speaker of the House of Delegates respectively. The Board of Trustees appoints a Public Defender who serves a six-year term.

The State is divided into twelve operational districts, conforming to the geographical boundaries of the District Court of Maryland. The District Public Defenders appointed by the Public Defender with the approval of the Board of Trustees, are responsible for representing all eligible indigent defendants in the District and Circuit Courts within their geographical boundaries.

In addition to the district offices, there are also four statewide operational divisions within the OPD that represent indigent defendants at all levels of the criminal justice process and in other proceedings where the rights of indigent defendants are implicated:

- (1) the Appellate Division handles all public defender appeals in the state appellate courts, and the United States Supreme Court;
- (2) the Collateral Review Division provides representation in post conviction hearings, extradition hearings and parole revocation hearings;

¹ The OPD enabling statute can be found in Criminal Procedure Article, Title 16. The statute sets forth OPD’s mandate, structure, and eligibility for OPD representation.

(3) the Mental Health Division provides representation to those indigent clients involuntarily confined to mental health facilities;

(4) the Children In Need of Assistance Division (CINA) provides representation to parents and legal guardians in cases involving allegations of abuse and neglect or where the State seeks termination of parental rights (TPR).

The OPD provides required litigation support services to our districts through administrative divisions: (i) the Forensics Division provides OPD attorneys with technical and litigation support regarding the use of forensic experts; (ii) the Aggravated Homicide Division provides direct representation, training and litigation consultation in capital cases and other complex aggravated homicide cases statewide; (iii) the Juvenile Protection Division monitors the conditions of confinement of all OPD juvenile clients committed to the custody of Juvenile Services; and (iv) the Training Division coordinates required continuing legal education and professional training to OPD staff. In addition, our Government Relations Director advises policy makers and constituents regarding criminal justice, juvenile justice and public safety policy matters relevant to the OPD mission and OPD clients.

The OPD also operates the Innocence Project in collaboration with the University of Baltimore Law School Law Clinic. This unit screens over 150 cases annually to assess whether an inmate claiming innocence may have a viable wrongful conviction claim utilizing contemporary forensic testing on old evidence retained by the police. It litigates viable innocence claims through all stages of the process.

OPD Representation

By statute, OPD representation of an indigent individual extends to criminal (or Juvenile) proceedings in which a defendant (or party) is alleged to have committed a serious offense. Md. Code, Criminal Procedure Article, Section 16-204(b).

“An individual may apply for services of the Office as an indigent individual, if the individual states in writing under oath or affirmation that the individual, without undue financial hardship, cannot provide the full payment of an attorney and all other necessary expenses of representation...” Md. Code, Criminal Procedure Article, Section 16-210(a). Every applicant for OPD services must complete a detailed written application that includes income, liability, and assets that are measured against the projected expenses of representation based on the complexity of the case and the charges involved, as mandated by statute.

Eligible clients are represented in court by Assistant Public Defenders except when there is an ethical conflict. In those cases, the Public Defender, or District Public Defender, appoints a panel attorney from the public defender’s list of private attorneys approved to represent public defender clients. Panel attorneys receive \$50 per hour, subject to a maximum of \$3,000 for most cases. The Public Defender exercises discretion in approving fees exceeding the maximum amount.

More information about the Office of the Public Defender is available at the website: <http://www.opd.state.md.us/>.

Annual Caseloads Report Calendar Year 2010

The following charts illustrate the average annual caseload per attorney in each of the agency's Districts and Divisions. The State of Maryland, in compliance with recommendations of the American Bar Association, adopted caseload standards for all Maryland case types in 2005.² These standards protect the right to *effective* assistance of counsel by establishing the maximum number of cases an attorney can competently handle. The following charts measure average annual attorney caseloads against these caseload standards.

The Office of the Public Defender uses caseload data to project its personnel and operating budget needs, support its operating budget submissions and allocate its resources effectively across the state.

By any measure, attorney caseloads in almost every area of law and region of the State far exceed acceptable caseload standards established to protect *effective* representation as guaranteed by the U.S. Constitution, the Maryland Declaration of Rights and Maryland law. The American Bar Association has declared that public defenders have an ethical obligation to decline new cases when current caseloads prevent them from effectively representing their clients. As the charts show, not only do excessive caseloads jeopardize effective assistance of counsel Statewide, these caseloads, with few exceptions, continue to increase in calendar year 2010 as they have over the last decade. This increase coincides with a significant loss of funding and staff through statewide budget reduction imposed on every state agency.

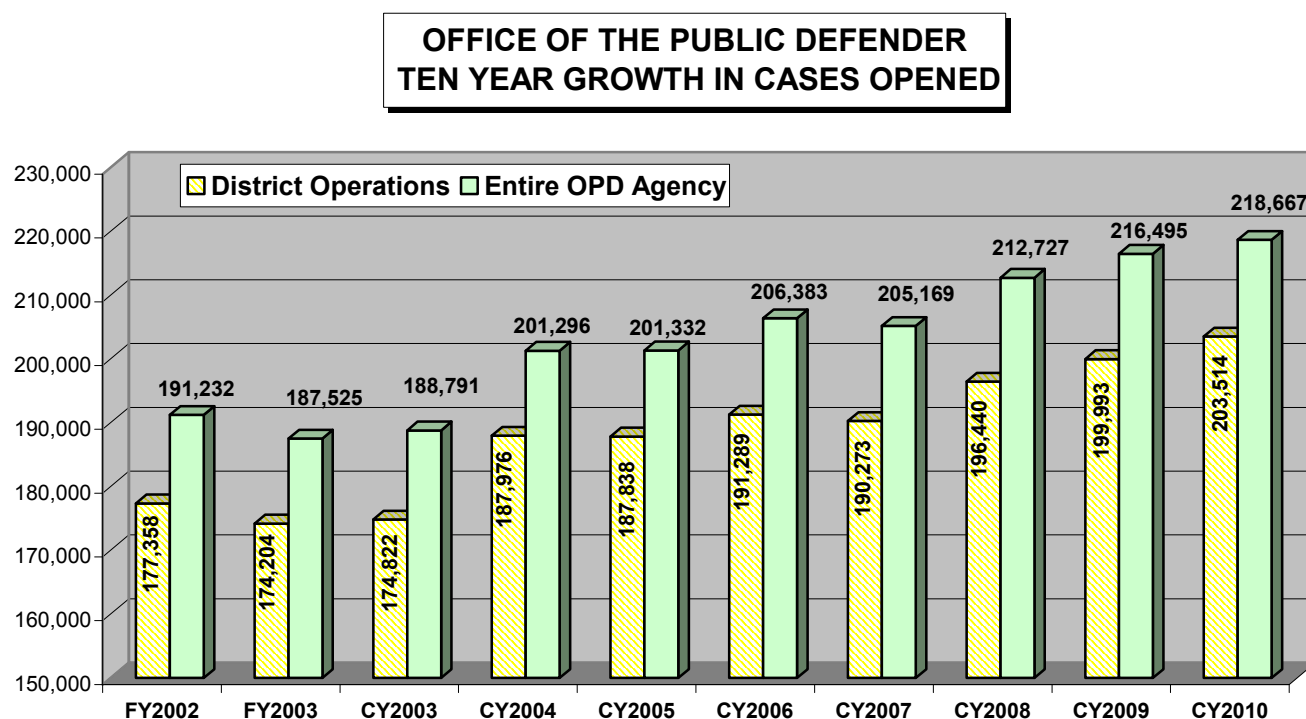


Chart 1

² Methodology used to establish caseload standards, case-weighting study and detailed caseload standards are published in "Maryland Attorney and Staff Workload Assessment, 2005" by the National Center for State Courts; this report is available at the OPD website: www.opd.state.md.us.

OFFICE OF THE PUBLIC DEFENDER
Calendar Year 2010 Cases Opened
Per District or Division & Area of Law

Calendar Year 2010	CIRCUIT	DISTRICT	JUVENILE	DISTRICT TOTALS
DISTRICT 1	16,026	48,476	4,938	69,440
DISTRICT 2	2,373	7,787	1,023	11,183
DISTRICT 3	2,897	6,852	487	10,236
DISTRICT 4	2,231	7,679	1,167	11,077
DISTRICT 5	4,653	15,313	1,667	21,633
DISTRICT 6	2,302	12,340	1,088	15,730
DISTRICT 7	2,528	10,635	1,277	14,440
DISTRICT 8	5,509	11,880	2,233	19,622
DISTRICT 9	1,744	3,566	509	5,819
DISTRICT 10	2,040	5,720	784	8,544
DISTRICT 11	3,347	7,322	1,230	11,899
DISTRICT 12	451	3,154	286	3,891
SUB-TOTALS	46,101	140,724	16,689	203,514
DIVISIONS				
APPELLATE	815			
CINA	5,367			
COLLATERAL REVIEW	2,346			
MENTAL HEALTH	6,545			
JUVENILE PROTECTION	80			
DIVISION TOTALS	15,153			15,153
OPD GRAND TOTAL				218,667

Chart 2

BALTIMORE CITY - URBAN DISTRICT
2009-2010 Average Annual Caseload

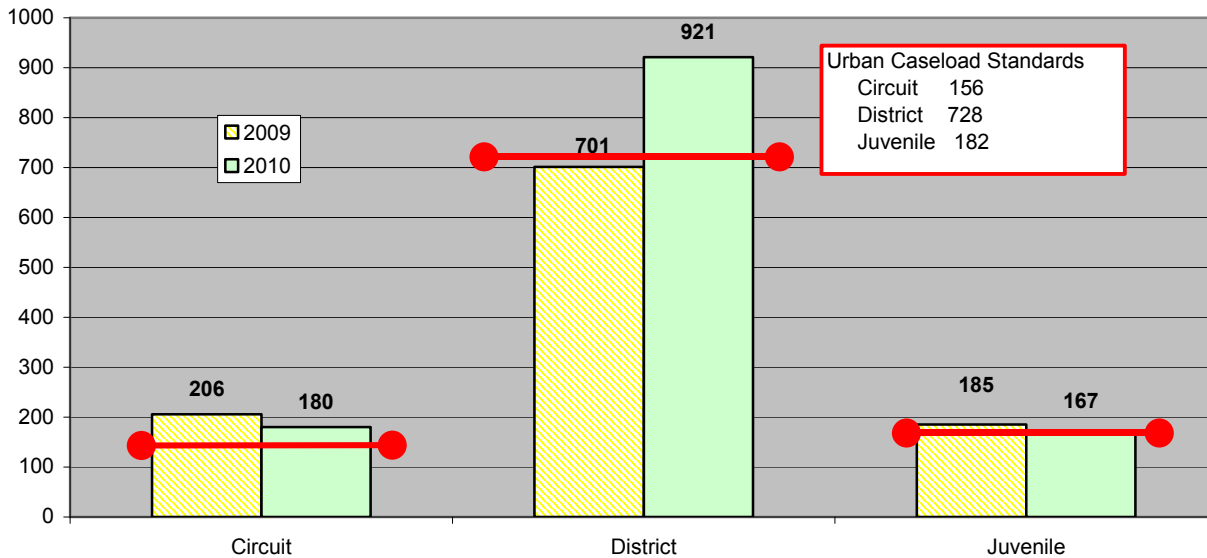


Chart 3

CIRCUIT COURT - RURAL DISTRICTS
2009-2010 Average Attorney Caseloads

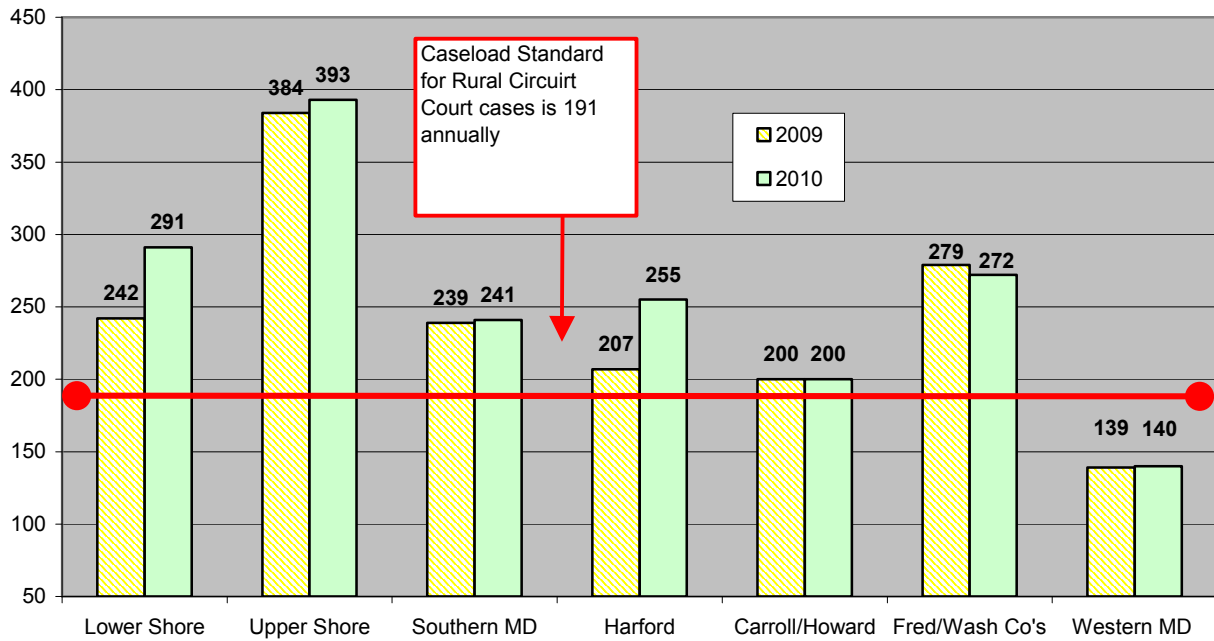


Chart 4

CIRCUIT COURT - SUBURBAN DISTRICTS
2009-2010 Average Attorney Caseloads

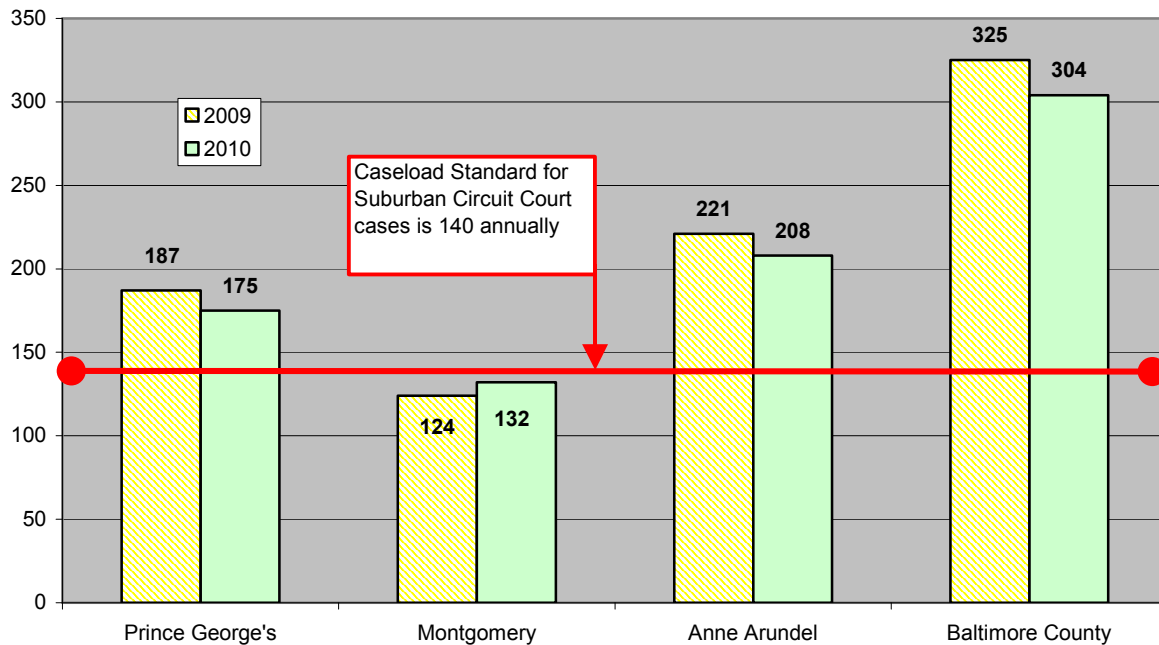


Chart 5

**DISTRICT COURT - RURAL DISTRICTS
2009-2010 Average Attorney Caseloads**

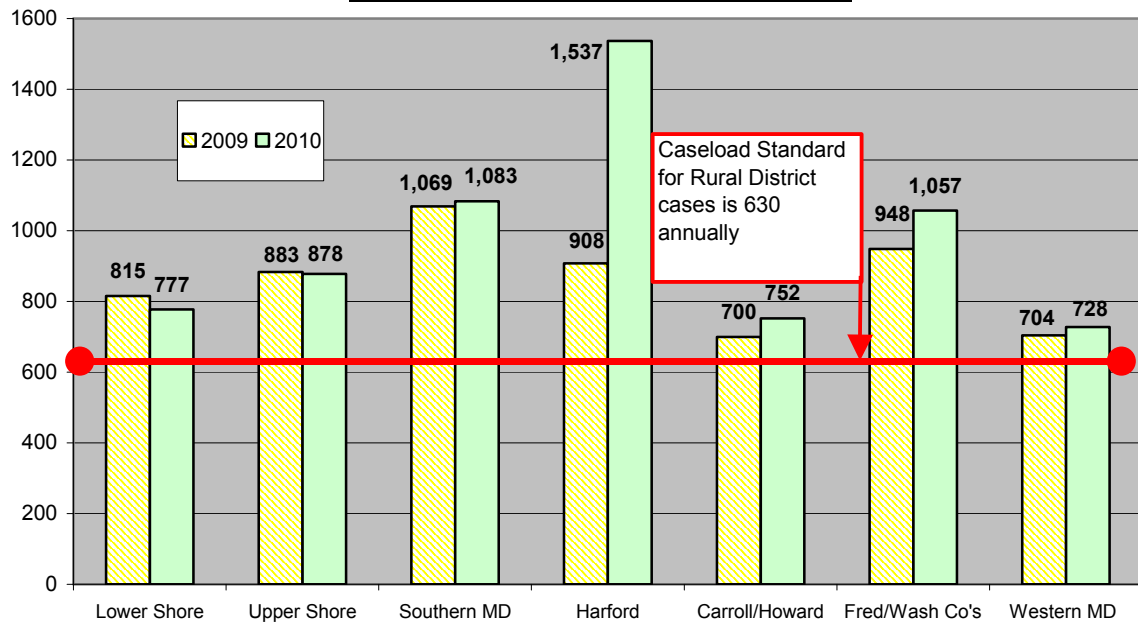


Chart 6

**DISTRICT COURT - SUBURBAN DISTRICTS
2009-2010 Average Attorney Caseloads**

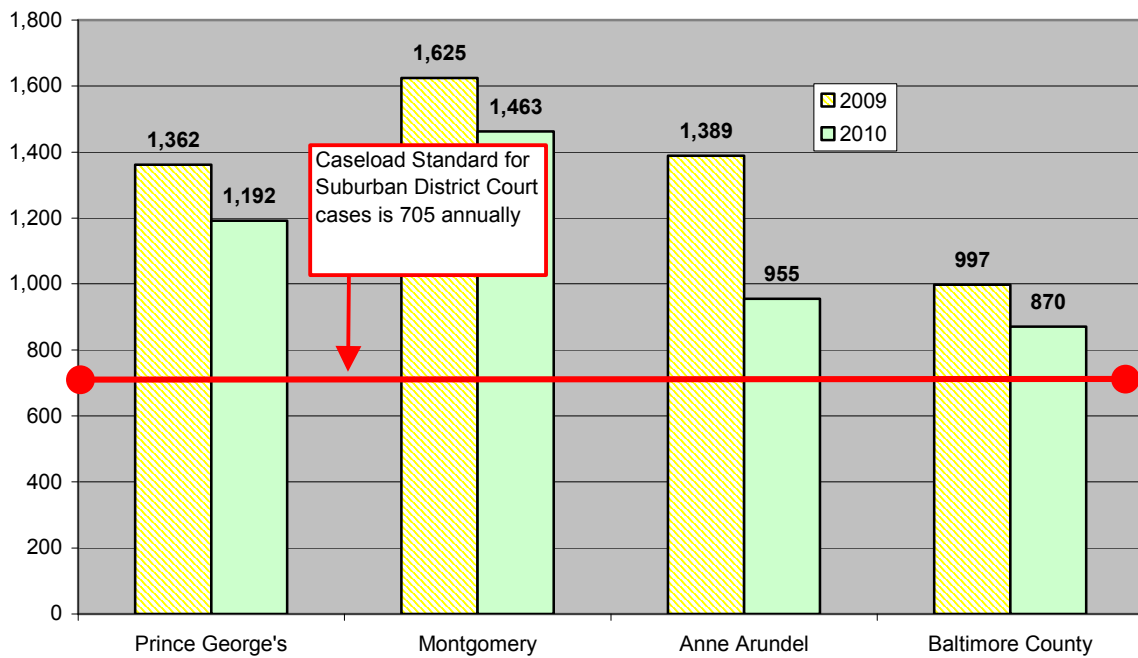


Chart 7

JUVENILE COURT - RURAL DISTRICTS 2009-2010 Average Attorney Caseloads

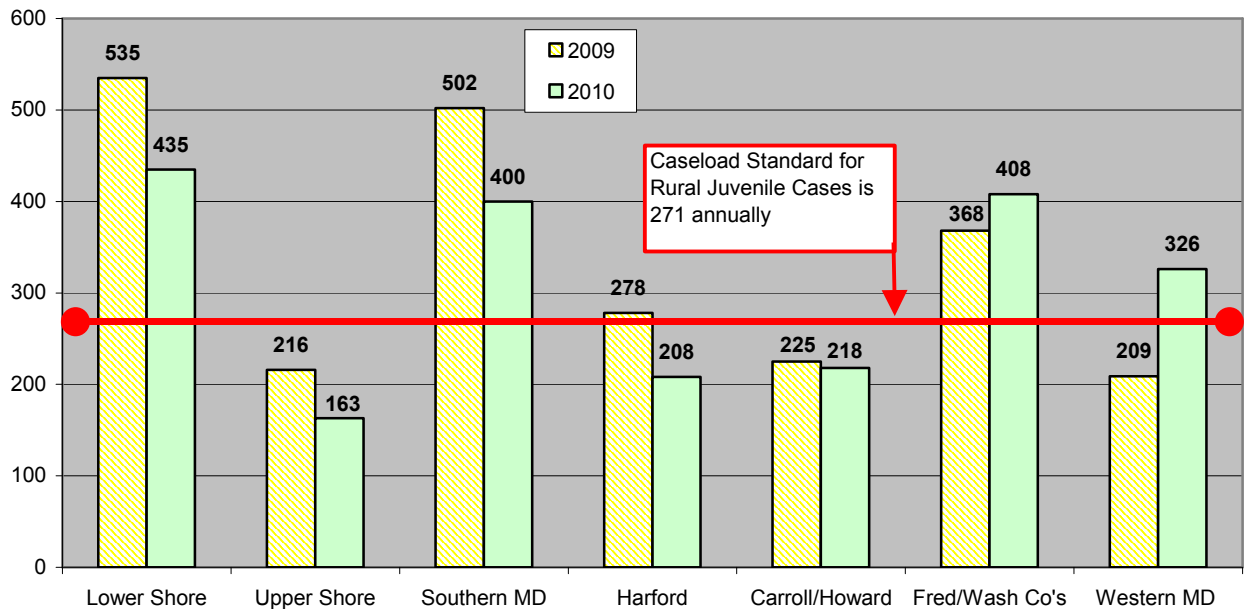


Chart 8

JUVENILE COURT - SUBURBAN DISTRICTS 2009-2010 Average Attorney Caseloads

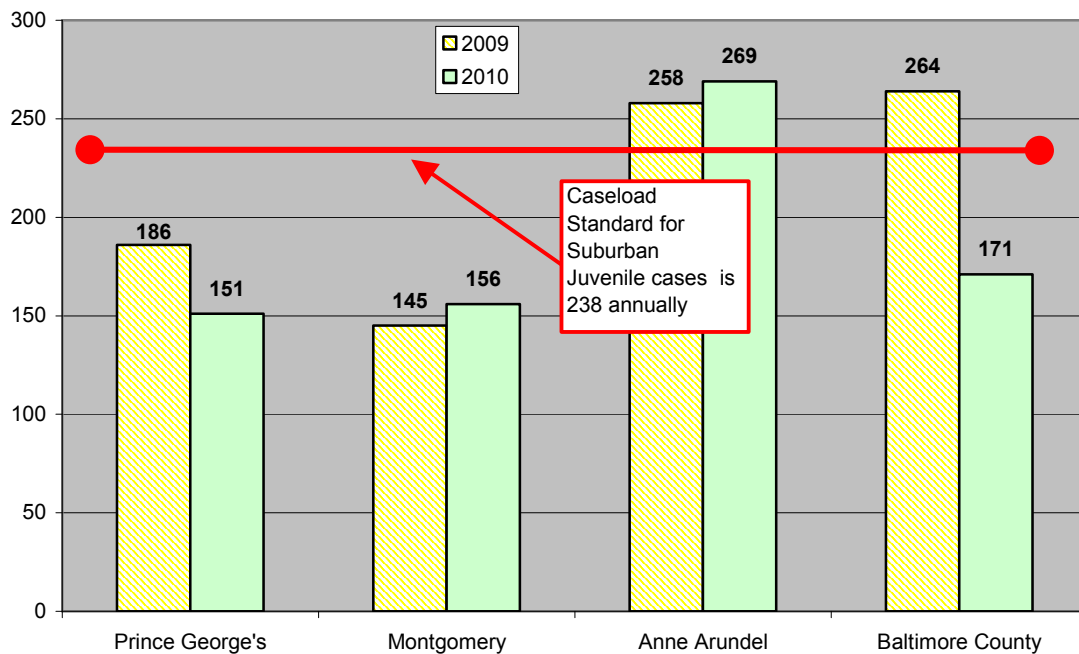


Chart 9

2009-2010 Average Attorney Caseloads Divisions

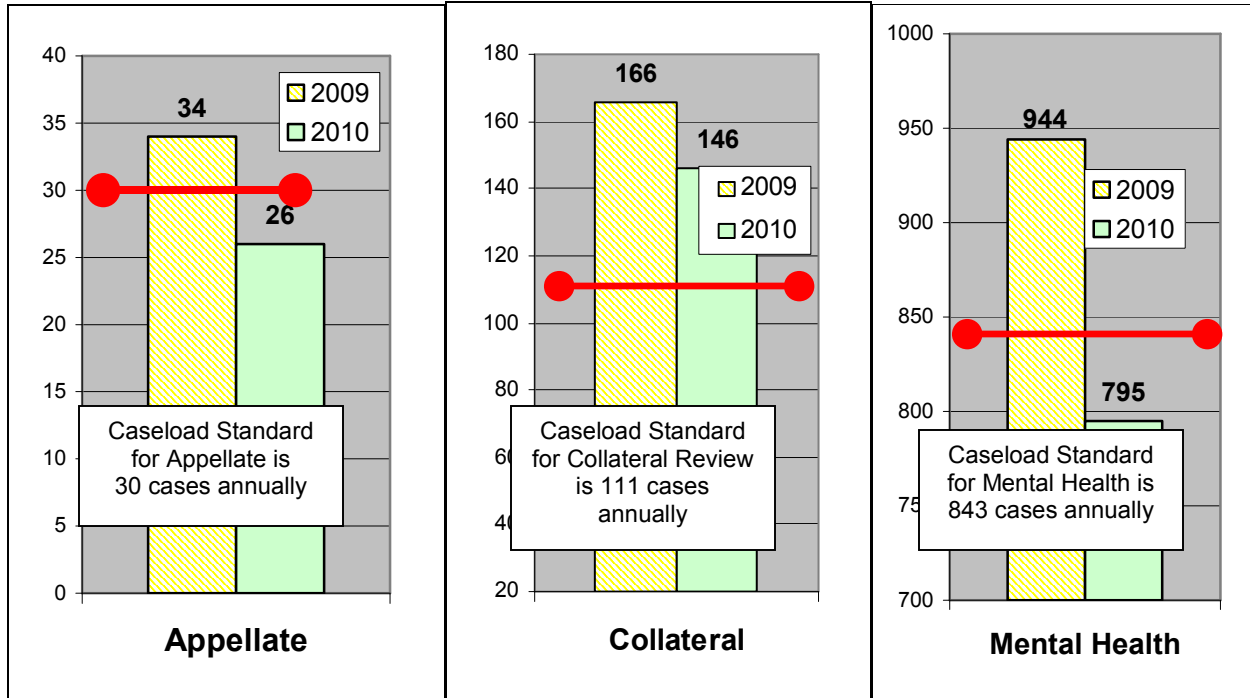


Chart 10

OFFICE OF THE PUBLIC DEFENDER
CY2010 Total Cases Opened by District by Area of Law & Matter Type

Matters Opened		AreaOfLaw																		
Calendar Year 2010		Circuit																		
District	County	CI	DA	JT	NS	OC	SC	VC	Circuit Total	District					District Total	Juvenile		Juvenile Total	Total	
										CR	OD	PH	SD	TR	VD		DE	VJ		
01	Baltimore City	5,928	347	6,318	371	15	112	2,935	16,026	37,637	33	4,689	14	3,998	2,105	48,476	4,818	120	4,938	69,440
01 Total		5,928	347	6,318	371	15	112	2,935	16,026	37,637	33	4,689	14	3,998	2,105	48,476	4,818	120	4,938	69,440
02	Dorchester County	129	11	70	5	25	10	130	380	627	14	122	8	336	111	1,218	203	4	207	1,805
	Somerset County	149	5	84	20	1	14	55	328	434	56	4	298	43	435	835	88	-	88	1,251
	Wicomico County	537	34	215	43	29	10	239	1,107	2,159	12	298	1	1,005	240	3,715	544	10	554	5,376
	Worcester County	247	10	154	33	6	5	103	558	1,221	6	161	3	546	82	2,019	172	2	174	2,751
02 Total		1,062	60	523	101	61	39	527	2,373	4,441	32	637	16	2,185	476	7,787	1,007	16	1,023	11,183
03	Caroline County	151	9	160	16		5	107	448	871		65	1	440	86	1,463	56	2	58	1,969
	Cecil County	254	11	960	28		14	341	1,608	1,365	7	101	3	763	140	2,379	251	7	258	4,245
	Kent County	35	3	81	30	4	1	80	234	306	4	24	3	213	42	592	38	12	50	876
	Queen Anne's County	70	12	92	13	10	29	68	294	486	3	86	47	373	185	1,180	69	-	69	1,543
	Talbot County	113	5	64	29	3	6	93	313	527	1	114	1	472	123	1,238	50	2	52	1,603
03 Total		623	40	1,357	116	17	55	689	2,897	3,555	15	390	55	2,261	576	6,852	464	23	487	10,236
04	Calvert County	145	2	82	139	16	41	121	546	1,299		15	7	538	124	1,983	214	45	259	2,788
	Charles County	443	11	199	156	6	46	255	1,116	2,077	5	131	28	1,049	238	3,528	496	162	658	5,302
	St. Mary's County	170	6	112	162	13	14	92	569	1,480	2	43	52	462	129	2,168	212	38	250	2,987
04 Total		758	19	393	457	35	101	488	2,231	4,856	7	189	87	2,049	491	7,679	922	245	1,167	11,077
05	Prince George's County	1,508	17	2,021	199	35	199	674	4,653	8,897	14	1,845	-	4,378	179	15,313	1,640	27	1,667	21,633
05 Total		1,508	17	2,021	199	35	199	674	4,653	8,897	14	1,845	-	4,378	179	15,313	1,640	27	1,667	21,633
06	Montgomery County	988	559	50	211	16	43	435	2,302	6,784	28	946	22	3,463	1,097	12,340	1,039	49	1,088	15,730
06 Total		988	559	50	211	16	43	435	2,302	6,784	28	946	22	3,463	1,097	12,340	1,039	49	1,088	15,730
07	Anne Arundel County	919	147	463	86	19	107	787	2,528	6,188	14	469	208	2,916	840	10,635	1,193	84	1,277	14,440
07 Total		919	147	463	86	19	107	787	2,528	6,188	14	469	208	2,916	840	10,635	1,193	84	1,277	14,440
08	Baltimore County	1,744	399	1,689	341	16	292	1,028	5,509	6,545	7	954	221	3,574	579	11,880	1,951	282	2,233	19,622
08 Total		1,744	399	1,689	341	16	292	1,028	5,509	6,545	7	954	221	3,574	579	11,880	1,951	282	2,233	19,622
09	Harford County	357	247	530	57	14	40	499	1,744	1,917	15	184	67	957	426	3,566	444	65	509	5,819
09 Total		357	247	530	57	14	40	499	1,744	1,917	15	184	67	957	426	3,566	444	65	509	5,819
10	Carroll County	199	39	494	38	16	116	323	1,225	1,075	2	145	34	542	140	1,938	295	17	312	3,475
	Howard County	330	10	185	29	8	102	151	815	1,962	5	170	71	1,352	222	3,782	452	20	472	5,069
10 Total		529	49	679	67	24	218	474	2,040	3,037	7	315	105	1,894	362	5,720	747	37	784	8,544
11	Frederick County	274	69	613	77	8	139	376	1,556	1,668	4	134	42	997	285	3,130	440	89	529	5,215
	Washington County	580	71	458	221	42	100	319	1,791	2,255	6	436	104	906	485	4,192	525	176	701	6,884
11 Total		854	140	1,071	298	50	239	695	3,347	3,923	10	570	146	1,903	770	7,322	965	265	1,230	11,899
12	Allegany County	122	5	168	3		10	59	367	1,495	3	243	45	404	232	2,422	205	19	224	3,013
	Garrett County	27	1	18	1	9	8	20	84	429	1	30	23	162	87	732	54	8	62	878
12 Total		149	6	186	4	9	18	79	451	1,924	4	273	68	566	319	3,154	259	27	286	3,891
Total		15,419	2,030	15,280	2,308	311	1,463	9,290	46,101	89,704	186	11,461	1,009	30,144	8,220	140,724	15,449	1,240	16,689	203,514

Key

CI = Crim Information/Indictment	NS = Non-Support	OC = Other Circuit	SD = Sentence Review District	DE = Juvenile Delinquency
DA = District Court Appeal	CR = Criminal District	TR = Traffic - District	TR = Traffic - District	VJ = Violation of Probation - Juvenile
JT = Jury Trial Demand	VC = VOP Circuit	PH = Preliminary Hearing	VD = Violation of Probation - District	

Chart 11

**PERCENTAGE CHANGE IN AVERAGE ATTORNEY CASELOAD
CALENDAR YEAR 2009 TO 2010**

District		Area of Law	CY 2009	CY 2010	Change	Caseload Standards	% change in Caseload Numbers	% over/under Caseload Standard
01	Baltimore City	Circuit	206	180	-26	156	-12.6%	15.4%
		District	701	921	220	728	31.4%	26.5%
		Juvenile	185	167	-18	182	-9.7%	-8.2%
02	Dorchester Somerset, Wicomico Worcester County	Circuit	242	291	49	191	20.2%	52.4%
		District	815	777	-38	630	-4.7%	23.3%
		Juvenile	535	435	-100	271	-18.7%	60.5%
03	Caroline, Cecil Kent, Queen Anne's Talbot County	Circuit	384	393	9	191	2.3%	105.8%
		District	883	878	-5	630	-0.6%	39.4%
		Juvenile	216	163	-53	271	-24.5%	-39.9%
04	Calvert County Charles County St.Mary's County	Circuit	239	241	2	191	0.8%	26.2%
		District	1,069	1,083	14	630	1.3%	71.9%
		Juvenile	502	400	-102	271	-20.3%	47.6%
05	Prince George's County	Circuit	187	175	-12	140	-6.4%	25.0%
		District	1,362	1,192	-170	705	-12.5%	69.1%
		Juvenile	186	151	-35	238	-18.8%	-36.6%
06	Montgomery County	Circuit	124	132	8	140	6.5%	-5.7%
		District	1,625	1,463	-162	705	-10.0%	107.5%
		Juvenile	145	156	11	238	7.6%	-34.5%
07	Anne Arundel County	Circuit	221	208	-13	140	-5.9%	48.6%
		District	1,389	955	-434	705	-31.2%	35.5%
		Juvenile	258	269	11	238	4.3%	13.0%
08	Baltimore County	Circuit	325	304	-21	140	-6.5%	117.1%
		District	997	870	-127	705	-12.7%	23.4%
		Juvenile	264	171	-93	238	-35.2%	-28.2%
09	Harford County	Circuit	207	255	48	191	23.2%	33.5%
		District	908	1,537	629	630	69.3%	144.0%
		Juvenile	278	208	-70	271	-25.2%	-23.2%
10	Carroll, Howard County	Circuit	200	200	0	191	0.0%	4.7%
		District	700	752	52	630	7.4%	19.4%
		Juvenile	225	218	-7	271	-3.1%	-19.6%
11	Frederick Washington County	Circuit	279	272	-7	191	-2.5%	42.4%
		District	948	1,057	109	630	11.5%	67.8%
		Juvenile	368	408	40	271	10.9%	50.6%
12	Allegany, Garrett County	Circuit	139	140	1	191	0.7%	-26.7%
		District	704	728	24	630	3.4%	15.6%
		Juvenile	209	326	117	271	56.0%	20.3%

Chart 12